

10/10/2002 15:09 FAX 612 349 9266

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DATE: October 10, 2002

TO: Examiner M. Belyavskyi

FAX #: (703) 872-9306

YOUR REF.: 09/855,027

OUR REF.: 1432.05US02

FROM: Curtis B. Herbert, Esq.

PHONE #: (612) 349-3008

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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

Hering et al.

Attorney Docket No.: 1432.05US02

Confirmation No.: 7980

Application No.: 09/855,027

Examiner: M. Belyavskyi

Filed:

May 14, 2001

Group Art Unit: 1644

For: SYSTEMS AND METHODS FOR INDUCING MIXED CHIMERISM

RESENDING OF PRELIMINARY AMENDMENT ORIGINALLY SENT APRIL 16, 2002

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

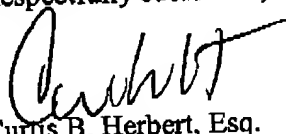
We have received an Office Action dated September 30, 2002. The Office Action does not reflect the changes made to the Application by a Preliminary Amendment of April 16, 2002. In our telephone conversation of October 7, 2002, you indicated that the Preliminary Amendment was not in the PTO's file. Attached is the Preliminary Amendment, a copy of the certificate of mailing, a copy of the postcard mailed by the PTO indicating receipt of the Amendment, and a copy of the check already provided to the PTO for payment of the fees associated with the Preliminary Amendment. Please vacate the Office Action of September 30, 2002.

Pursuant to 37 CFR § 1.8(b), enclosed is a copy of the previously mailed Preliminary Amendment and Certificate of Mailing. The undersigned has personally confirmed with the appropriate attorneys and staff that the Preliminary Amendment was mailed as per the certificate of mailing. A photocopy of a postcard sent by the PTO shows receipt of the Amendment by the PTO on April 23, 2002. Your indication that the Preliminary Amendment was not in the patent file was our first indication that the Preliminary Amendment was not in the file. Since the

Attorney Docket No.: 1432.05US02

Examiner's Office Action rejected the claims with prejudice but the Preliminary Amendment was mailed in accordance with 37 CFR 1.8(a), the Preliminary Amendment is to be considered timely. Since the Preliminary Amendment was timely, the Examiner is requested to withdraw the Office Action and issue a new one based on the Preliminary Amendment. Also, pursuant to 37 CFR 1.115 and MPEP 714.03(a), the Preliminary Amendment is to be entered since the Preliminary Amendment was actually received prior to the preparation of a first Office Action.

Respectfully submitted,



Curtis B. Herbert, Esq.
Registration No. 45,443

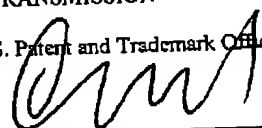
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Please grant any extension of time necessary for entry; charge any fee due to Deposit Account No. 16-0631.

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being transmitted by facsimile to the U.S. Patent and Trademark Office, Fax No. (703) 872-9306 on the date shown below.

October 10, 2002
Date


Curtis B. Herbert, Esq.

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Attorney Docket No. 1432.05US02

PRELIMINARY AMENDMENT TRANSMITTAL

In re the application of:

Hering et al.

Application No.: 09/855,027

Examiner: Not Assigned

Filed: May 14, 2001

Group Art Unit: 1633

For: SYSTEMS AND METHODS FOR INDUCING MIXED CHIMERISM

Assistant Commissioner for Patents
 Washington, D.C. 20231

Sir:

Transmitted herewith is an Amendment in the above-identified application.

[X] Applicants are entitled to small entity status in accordance with 37 CFR 1.27.

The filing fee has been calculated as shown below:

| | Claims Remaining After Amendment | Highest No. Previously Paid For | Present Extra (Equals) | Small Entity Rate | Add'l Fee | OR | Large Entity Rate | Add'l Fee |
|------------|---|--|------------------------------|----------------------|--------------|----|----------------------|--------------|
| Total | 63 | - 2 | = 43 | x 9 | \$387 | | x 18 | \$ |
| Indep. | 9 | - 1 | = 6 | x 42 | \$252 | | x 84 | \$ |
| Multi-Dep. | | | = | + 140 | \$ | | + 280 | \$ |
| TOTAL | | | | | \$639.00 | OR | TOTAL | \$ |

[] First Presentation of Multiple Dependent Claim [MDC]

- * If the entry in Column 1 is less than the entry in Column 2, write "0" in Column 3.
 - ** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, write "20" in this space.
 - *** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, write "3" in this space.
- The "Highest Number Previously Paid For" (Total or Independent) is the highest number found from the equivalent box in Column 1 of a prior Amendment or the number of claims originally filed.

Application No. 09/855,027

- [X] A check in the amount of \$639.00 is attached. The Commissioner is hereby authorized to charge payment of any fees under 37 C.F.R. § 1.16 for presentation of extra claims or credit any overpayment to Deposit Account No. 16-0631.

Respectfully submitted,



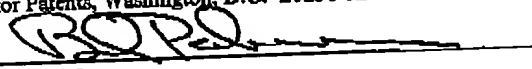
Brad Pedersen
Registration No. 32,432

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CERTIFICATE OF MAILING

I hereby certify that this document is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on

April 16, 2002
Date of Deposit


Brad Pedersen